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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

DARIUS MICHAEL WILLIAMS,

Defendant and Appellant.

A127651

(Contra Costa County
Super. Ct. No. 05-090630-5)

Darius Michael Williams (appellant) appeals from a judgment entered after he pleaded no contest to second degree robbery (Pen. Code,¹ §§ 211, 212.5, subd. (c).) Appellant's counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, and requests that we conduct an independent review of the record. Appellant was informed of his right to file a supplemental brief and did not file such a brief. Having independently reviewed the record, we conclude there are no issues that require further briefing, and we affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

On June 19, 2009, following a grand jury proceeding, an indictment was filed charging appellant and a co-defendant with second degree robbery (§§ 211, 212.5, subd. (c)). The indictment also alleged appellant was armed with a handgun during the commission of the crime (§ 12022, subd. (a)(1)).

At a hearing on appellant's motion to suppress evidence, Officer Minh Vu of the Contra Costa County Sheriff's Department testified that at approximately 9:43 p.m. on

¹ All statutory references are to the Penal Code.

April 23, 2009, he went to Terrace Way in Lafayette in response to a report of an armed robbery. There, he met with the victim who told him he was robbed by three black males. The victim said that when he got home that night, a white, four-door American-made car, “possibly a Chevy,” was parked in his parking stall. He asked the driver to move the car; she complied and drove away. The victim parked his car in his stall and proceeded to walk towards his apartment when the “suspects came from the area where the car had driven to” and one of them held a gun to the victim’s neck and demanded money. The victim was in fear for his life and was not able to respond. Another suspect took the victim’s wallet and keys from his pants pocket and looked through the wallet, and when he did not find much money inside, he told the suspect with the gun to “shoot him, shoot him.” The third suspect came up to the victim and hit him in the face. All three suspects then fled the scene.

The first suspect was described as a “black male juvenile 12 to 13 years of age, about 5’2^[b] [and] 110 pounds, wearing a dark hoodie.” The second and third suspects were described as “black male adult[s]” in their “early 20’s,” and “about 5’8^[b] [and] 170 pounds.” Vu “put the suspect descriptions out over the air” so the information would be “broadcast throughout . . . [the] Lamorinda and Richmond area[s].” Later that night, around 10:26 p.m., Vu took the victim to a Chevron station in Orinda after learning that two officers had detained several subjects found inside a car that matched “the suspect vehicle.” Five individuals were being detained at the Chevron station. The victim identified the car as the one that was at the scene of the robbery, and also identified the driver of the car and the three robbery suspects. The victim identified appellant as the one who had the gun during the robbery.

Officer Scott Piler of the Contra Costa County Sheriff’s Department testified that at about 9:40 p.m. on April 23, 2009, he went to Terrace Way in Lafayette and “stood to the side” as Vu met with the robbery victim. At about 9:51 p.m., he “put out a suspect vehicle description” as a “white four-door American vehicle,” based on what the victim had told Vu. Piler later went to the Chevron station in Orinda, which was located approximately four miles away from the location of the robbery, and searched the suspect vehicle. He found a black leather wallet between the front passenger seat and the center console that

contained two credit cards with the victim's name on them. Underneath the front passenger seat, he found a "Triple A card" with the victim's name on it.

Officer Daniel Vargas of the Contra Costa County Sheriff's Department testified that on April 23, 2009, at approximately 9:43 p.m., he heard a dispatch about an armed robbery that had occurred. The dispatch provided descriptions of the suspects and the vehicle that was involved. At approximately 9:57 p.m., he saw a white, four-door Chevy Impala that matched the description (the Chevy). He saw one black male in the driver's seat and another in the passenger seat, and a third black male inside the convenience store. He could not see anyone in the back seat. He pulled into the gas station and saw that another officer, Officer Gray, was already there. Vargas conducted a traffic stop and realized the driver of the Chevy was actually a woman and that there were four occupants inside the car. He informed the individuals why he was stopping them and advised them of the crime that had occurred. At some point, a male, whom he identified in court as appellant, came out of the convenience store. Appellant walked towards Vargas and Gray, and when Vargas asked if he was with the group, appellant responded that he was. Vargas explained the situation to appellant and detained him for further questioning "to find out what was going on."

Officer Michael Gray testified that on April 23, 2009, he heard a dispatch regarding an armed robbery involving three black males and received descriptions of the suspects and a vehicle description. At approximately 9:57 p.m., he saw a white, four-door Chevy Impala at a Chevron station and "[i]t looked like there [were] four or five" occupants in the car who appeared to be "Black males, or black." Once he pulled into the Chevron parking lot and stopped, one of the black males who was wearing a dark hoodie or black sweatshirt, whom Gray identified in court as appellant, exited the vehicle and went into the convenience store. Gray was about to contact his partner, Officer Vargas, when he saw Vargas pulling into the Chevron parking lot. As the Chevy started to move, Vargas pulled in behind it and turned on his overhead lights to enforce a traffic stop. The Chevy continued to move. "[T]hinking the vehicle was not going to stop and continue fleeing," Gray pulled in front of the Chevy to block its path. The driver identified herself with a driver's license and the officers ordered all of the other occupants to get out of the car and "pat searched" them for officer safety. After all of the other occupants were out of the vehicle, appellant came out of the store.

Shortly thereafter, Gray saw a man waving his arms in the air and waving him into the store. Gray walked inside the store and the man told him a gun had been left in the store. Gray lifted up one of the boxes and found a black semiautomatic gun.

The trial court denied the motion to suppress evidence. On February 10, 2010, appellant pleaded no contest to second degree robbery. Pursuant to the parties' agreement, the trial court dismissed the enhancement allegation, sentenced appellant to three years in state prison, suspended imposition of the sentence, and placed him on probation on various conditions, including a requirement that he serve one year in county jail.

DISCUSSION

We have reviewed the entire record and conclude there are no arguable issues that warrant further briefing. There is substantial evidence supporting the trial court's denial of the motion to suppress evidence. There is no clear and convincing evidence of good cause to allow appellant to withdraw his guilty plea. Appellant was adequately represented by counsel at every stage of the proceedings and appeared at every hearing. There was a factual basis for the plea. There was no sentencing error. There are no issues that require further briefing.

DISPOSITION

The judgment is affirmed.

McGuiness, P.J.

We concur:

Pollak, J.

Siggins, J.